

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

RUBEN ARCHIBEQUE,

Plaintiff.

v.

No. _____

JEFFREY YUKAWA,
TEXTURA CORPORATION, and
CHUBB GROUP OF INSURANCE COMPANIES,

Defendants.

NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. SECTION 1441(B)

PLEASE TAKE NOTICE that Defendants Jeffrey Yukawa and Great Northern Insurance Company, incorrectly named Chubb Group of Insurance Companies, by and through their attorneys of record, Madison & Mroz, P.A., hereby file this Notice of Removal of the above-captioned action to the United States District Court for the District of New Mexico from the Second Judicial District Court of Bernalillo County, New Mexico, where this action is now pending, pursuant to 28 U.S.C. Section 1441(b), and state:

NATURE OF ACTION AND SERVICE

1. On or about February 17, 2012, Plaintiff Ruben Archibeque commenced an action in the Second Judicial District Court, County of Bernalillo, State of New Mexico, Case No. D-202-CV-2012-01783, against Defendants Jeffrey Yukawa ("Yukawa"), Textura Corporation ("Textura"), and Great Northern Insurance Company ("GNIC"), incorrectly named as Chubb Group of Insurance Companies. **Attached hereto as Exhibit A** is the Complaint to Recover Damages for Personal Injuries (hereinafter referred to as "Complaint").

2. On or about April 10, 2009, Plaintiff was allegedly involved in an automobile accident with Defendant Yukawa in Bernalillo County, New Mexico. Defendant Yukawa is

alleged to be in the course and scope of his employment at the time of the accident. Defendant Textura is alleged to be Defendant Yukawa's employer at the time of the accident. Defendant GNIC is alleged to have provided insurance to both Defendants Yukawa and Textura. Plaintiff filed an action in the Second Judicial District Court, Bernalillo County, State of New Mexico, Case No. D-202-CV-2012-01783, to recover from the alleged negligence of Defendants.

3. Plaintiff served Defendant Yukawa with process via certified mail on March 1, 2012. **Attached hereto as Exhibit B** is the summons issued.

4. Plaintiff served Defendant GNIC with process on their registered agent in the State of New Mexico, the Superintendent of the New Mexico Department of Insurance on March 8, 2012, in accordance with the New Mexico Statutes and Rules of Civil Procedure. **Attached hereto as Exhibit C** is the Return of Service of Process.

5. As of the date of filing, Defendant Textura has not been served.

6. This Notice of Removal is filed within 30 days of service on Defendants GNIC and Yukawa and is timely pursuant to 28 U.S.C. Section 1446(b).

DIVERSITY OF PARTIES

7. Plaintiff is alleged to be a resident of Valencia County, New Mexico. [Complaint at ¶ 1].

8. Defendant Yukawa is alleged to be a resident of the State of California. [Complaint at ¶ 3].

9. Defendant Textura is a foreign corporation. Upon the information and belief of Defendant GNIC, Defendant Textura's principal place of business is located in the State of Illinois.

10. Defendant Great Northern Insurance Company is a foreign corporation with its principal place of business in the State of Indiana.

11. There is complete diversity of citizenship between Plaintiff and each Defendant.

AMOUNT IN CONTROVERSY

12. The amount in controversy must exceed \$75,000.00, exclusive of interests and costs in order to confer federal jurisdiction. 28 U.S.C. § 1332(a). Claims may be aggregated to meet the jurisdictional amount. *Macpherson v. Brinecell, Inc.*, 98 F.3d 1241, 1245 (10th Cir. 1996).

13. The amount in controversy for removal jurisdiction normally is determined by reference to the allegations in the plaintiff's complaint. *Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (10th Cir. 1995). However, Plaintiff does not reference a sum certain with regards to damages.

14. In an effort to investigate the amount alleged to be in controversy, undersigned counsel sent Plaintiff correspondence regarding a stipulation that the amount in controversy was not in excess of \$75,000.00. **Attached hereto as Exhibit D** is correspondence between counsel.

15. Plaintiff rejected undersigned counsel's stipulation, therefore it is clear that the Plaintiff's alleged damages demonstrate a controversy in excess of \$75,000.00.

16. Given the complete diversity of the real parties and an amount in controversy in excess of \$75,000.00, this Court has jurisdiction over the causes of action and claims asserted in the State Court action pursuant to 28 U.S.C. § 1332, and this action is properly removable pursuant to 28 U.S.C. § 1441.

CONSENT AND NOTICE

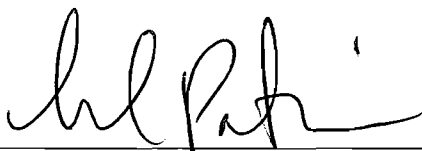
17. Defendant Textura has not been served, to the knowledge of Defendants Yukawa and GNIC.

18. Written notice of the filing of this removal of the above action pursuant to 28 U.S.C. § 1446(d) is being delivered to Plaintiff, through his counsel. A copy of this Notice of Removal will be promptly filed with the Clerk of the Court, Second Judicial District, State of New Mexico.

WHEREFORE Defendants Jeffrey Yukawa and Great Northern Insurance Company, incorrectly named as Chubb Group of Insurance Companies, hereby give notice that the above-styled action, which was pending in the Second Judicial District, County of Bernalillo, State of New Mexico, as Cause No. D-202-CV-2012-01783, is removed to this Court. The exhibits attached to this Notice constitute all pleadings which have been served on the removing Defendants.

Respectfully submitted,

MADISON & MROZ, P.A.

By: 

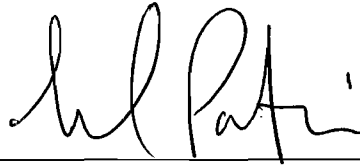
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*Attorneys for Defendants Jeffrey Yukawa
and Great Northern Insurance Company*

CERTIFICATE OF SERVICE

It is hereby certified that I caused to be sent by U.S. Mail, postage prepaid, on this 29th day of March, 2012, a true and correct copy of the foregoing *Notice of Removal of Action Under 28 U.S.C. Section 1441(B)* to the following parties:

Lee Hunt
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Attorneys for Plaintiff



Madison & Mroz, P.A.